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Dear Julian

Re: Modification Proposals 0195/0195A: “Introduction of Enduring NTS Exit Capacity Arrangements”

Thank you for your invitation seeking representations with respect to the above Modification Proposals. These comments are on behalf of National Grid Gas Distribution (“Distribution”) and to help with the Modification process we have tried to follow the format suggested by the Joint Office as closely as possible. In terms of order of preference and support we offer the following:

Distribution offer support for the implementation of Modification Proposal 0195

Distribution offer support for the implementation of Modification Proposal 0116CVV

Distribution offer qualified support for the implementation of Modification Proposal 0195A

Distribution offer qualified support for the implementation of this Modification Proposal 0116A

Distribution do not support the implementation of Modification Proposal 0116VD

Distribution do not support the implementation of Modification Proposal 0116V

Distribution do not support the implementation of Modification Proposal 0116BV

We wish to qualify the above statement and further comments in this response because legal text is only available for 0116V. This is despite the fact that it is over 4 months ago (26 October 2007) that Ofgem indicated in an open letter “UNC 0116 – enduring offtake next steps following the Competition Commission’s decision” that the implementation of Modification Proposal 0116V was withdrawn and all variants were back on the table. This lack of clarity does of course introduce an element of risk into this modification process and highlights that the present process was not really designed to cope with the fundamental regime changes proposed by these proposals.

Notwithstanding this caveat the rationale for our preference is as follows:

1. We support exit reform where it can be shown to be beneficial by an Impact Assessment. Given that 0116A is the “do nothing” option, we can only support a mod that the Impact Assessment demonstrates to be superior to 116A. If 0116A is the best performing modification under the Impact Assessment, then the case for cost effective exit reform has not been made and 0116A should be supported to resolve the issue of the “sunset clause”.

2. In our view the most relevant discrimination is to avoid giving end users perverse incentives to connect to either the DN or the NTS as this could influence customer behaviour (discrimination between DNs and end users connected to the NTS is less of an issue as it cannot influence their behaviour). We have always been concerned that the charging of Flow Flex to NTS direct connects, but not DN customers creates a risk of perverse incentives. We have other concerns regarding Flow Flex:
 - a. The Competition Commission formed the view that the case for its scarcity has not been made
 - b. The definition is flawed as DNs will appear to consume Flow Flex on any day where actual demand is less than forecast, potentially leading to inefficient investment
 - c. Ofgem's Impact Assessments did not support the introduction of "full" Flow Flex regimes
 - d. Flow Flex is "one sided" and does not recognize the potential for the upstream side to add to, or help resolve, the issue. In particular we would welcome proposals that encouraged producers make use of the storage capacity that exists in the pipeline network under the North Sea and the ability of LNG terminals to vary their output of gas

We have made our concerns clear many times and most recently in response to the NTS analysis of the availability of Flow Flex. Given our concerns that Flow Flex is not fully developed as a concept and the lack of an urgent need to implement a more rigorous regime, we prefer those modifications that broadly keep the current Flow Flex regime: 0116CVV, 0195 and 0195A.
3. We are not discounting the applicability of 0195A and feel it is perhaps more appropriate for Shipper Users to comment on the additional service offered by this proposal but at the moment do not understand the rationale for two forms of daily flat capacity under Mod 0195A. Mod 0195A appears to specify how the NTS will determine the minimum volume of interruptible Daily Off-Peak Flat Capacity that will be made available. We are not in a position to judge the appropriateness of the proposed methodology, but in principle believe that it would be better for the NTS to publish their methodology rather than enshrining such detail within the UNC. It follows that we cannot give unqualified support to 0195A until we have been reassured that the methodology is sound.
4. We support 0195 over 0116CVV because of the development work that has gone on in review group 166 and recognize that, of all the modifications in play, it has the broadest support base.

As we have already commented on 0116 variants in response to these proposals in December 06 and January 07 our comments in the next sections relate solely to 0195/0195A. Unless stated otherwise comments apply to both 0195 variants.

Extent to which implementation of the proposed modification would better facilitate the relevant objectives

Gas Transporter Licence Standard Special Condition A11.1

- (a) *the efficient and economic operation of the pipe-line system to which this licence relates;***

The implementation of the proposal would enable Users to provide an accurate indication of their exit capacity requirements beyond 2012 thus allowing NTS to undertake better informed investment decisions thus facilitating the efficient and economic operation of the NTS pipeline system

- (b) *so far as is consistent with sub-paragraph (a), the coordinated, efficient and economical operation of (i) the combined pipe-line system, and/ or (ii) the pipe-line system of one or more other relevant gas transporters;***

The proposals would allow DNs to indicate their exit capacity requirements and NTS to make efficient decisions on how to provide that capacity. This relevant objective is particularly important with the implementation of DN Interruption Reform such that DNs could better trade off between contracting for interruption and providing additional infrastructure and procuring NTS exit capacity.

- (c) ***so far as is consistent with sub-paragraphs (a) and (b), the efficient discharge of the licensee's obligations under this licence;***

We have already stated that we would only support the proposals if it can be demonstrated that the benefits outweigh the costs. Therefore we believe that this objective could only be achieved with a positive outcome from a regulatory impact assessment. In terms of discrimination between Users we believe the important discrimination to avoid is between Users connected to the NTS and those connected to the DN

- (d) ***so far as is consistent with sub-paragraphs (a) to (c) the securing of effective competition:***

- (i) ***between relevant shippers;***

Offering consistent products across all shippers should enable shippers to NTS connected loads to compete with each other

- (ii) ***between relevant suppliers; and/or***

Similar comments apply to (i) above

- (iii) ***between DN operators (who have entered into transportation arrangements with other relevant gas transporters) and relevant shippers;***

There is likely to be only limited competition between DNs and shippers and this will be determined by the geography of the network and the supply and demand of capacity in those geographical areas

- (e) ***so far as is consistent with sub-paragraphs (a) to (d), the provision of reasonable economic incentives for relevant suppliers to secure that the domestic customer supply security standards (within the meaning of paragraph 4 of standard condition 32A (Security of Supply – Domestic Customers) of the standard conditions of Gas Suppliers' licences) are satisfied as respects the availability of gas to their domestic customers; and***

We have not identified any impact.

- (f) ***so far as is consistent with sub-paragraphs (a) to (e), the promotion of efficiency in the implementation and administration of the network code and/or the uniform network code.***

We have not identified any impact.

The implications of implementing the Modification Proposal on security of supply, operation of the Total System and industry fragmentation

It is arguable whether there would be any industry fragmentation as a result of this proposal. NTS should be provided with better system management tools.

The implications for Transporters and each Transporter of implementing the Modification Proposal, including

a) implications for operation of the System:

Our comments with regard to system management tools equally apply here

b) development and capital cost and operating cost implications:

There could be substantial system costs associated with the implementation of this proposal. We have already stated we would not support the proposal if the benefits outweigh the costs. Presumably this will be captured by Ofgem's impact assessment.

c) extent to which it is appropriate to recover the costs, and proposal for the most appropriate way to recover the costs:

No proposal for cost recovery is included

d) analysis of the consequences (if any) this proposal would have on price regulation:

We will be commenting separately on the associated pricing consultations.

The consequence of implementing the Modification Proposal on the level of contractual risk of each Transporter under the Code as modified by the Modification Proposal

From a DN point of view this would be determined largely by the incentive arrangements that would be in place when the proposal were to take effect

The high level indication of the areas of the UK Link System likely to be affected, together with the development implications and other implications for the UK Link Systems and related computer systems of each Transporter and Users

It is expected that the system impacts will be on existing IS infrastructure and the Gemini system and that relevant procedures will be provided as part of the consultation on this proposal. We presume that this will be a staged development with the requirement to enter into the long term processes for flat capacity in summer 09 being the first stage. We would like to record that many shippers are already likely to be trained in the use of the Gemini system – for the purposes of booking capacity many DN users are not and are therefore likely to require more detailed training. Without knowledge of the systems specification it is difficult to assess how significant this will be.

The implications of implementing the Modification Proposal for Users, including administrative and operational costs and level of contractual risk

We presume that these costs and the level of contractual risk will be reflected in the Ofgem Impact Assessment. There will no doubt be an impact on the contractual arrangements with downstream parties. From a DN point of view because of the User commitment methodology we will need to have charging arrangements in place to reflect the costs we will incur for booking capacity from the NTS. This will have a cost impact for DNs.

The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non Code Party

The comments in the previous paragraph apply here.

Consequences on the legislative and regulatory obligations and contractual relationships of each Transporter and each User and Non Code Party of implementing the Modification Proposal

We have no comments on this section

Analysis of any advantages or disadvantages of implementation of the Modification Proposal

We have identified the following advantages:

- NTS will be better able to demonstrate efficient investment
- Enable Users to signal their long term capacity requirements
- Enable NTS to offer vanilla products to all classes of User
- Enable Users to place value on the capacity they require

We have identified the following disadvantages:

- Increased complexity in both systems and processes which will lead to an increase in costs
- Uncertainty for Users, especially DNs, in operating in a daily capacity regime
- There is a potential impact on Transporter Safety Cases
- Depending on the charging methodology there is potential uncertainty in the charge Users will pay for capacity at the time of use
- For 0195A there is a potential uncertainty with how the NTS will determine the minimum volume of interruptible Daily Off-Peak Flat Capacity that will be made available

The extent to which the implementation is required to enable each Transporter to facilitate compliance with safety or other legislation

The proposed changes could impact on the NTS, DN and NEC Safety Cases, the materiality of which will need to be assessed

The extent to which the implementation is required having regard to any proposed change in the methodology established under paragraph 5 of Condition A4 or the statement furnished by each Transporter under paragraph 1 of Condition 4 of the Transporter's Licence

We acknowledge that implementation is not required having regard to any proposed change in the aforementioned methodology.

Programme for works required as a consequence of implementing the Modification Proposal

The impact on systems changes has been mentioned previously

Proposed implementation timetable (including timetable for any necessary information systems changes)

We note that Ofgem has indicated that a decision on the proposals may not be made until November 2008. In view of the required system changes we feel this puts implementation in 2009 at risk.

Implications of implementing this Modification Proposal upon existing Code Standards of Service

We have no comments on this section.

I hope you find these comments helpful.

Yours sincerely,

Mark Freeman